

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

STEPHEN A. SCOTT,

Petitioner,

v.

TONY PARKER, WARDEN,

Respondent.

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**No. 3:09-0252
Judge Campbell**

ORDER

Before the Court is the respondent's motion to dismiss (Docket Entry No. 12), the petitioner's motion for summary judgment (Docket Entry No. 17), and the respondent's motion to expand the record (Docket Entry No. 15).

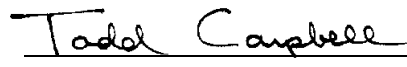
For the reasons explained in the accompanying memorandum, the respondent's motion to dismiss (Docket Entry No. 12) is **DENIED** in part and **GRANTED** in part. The respondent's motion to dismiss the petitioner's claim rising under *Blakely v. Washington*, 542 U.S. 296 (2004) is **DENIED**. The respondent shall respond to the merits of the petitioner's *Blakely* claim within thirty (30) days of the date of entry of this order. The respondent's motion to dismiss the petitioner's ineffective assistance of counsel claims as procedurally defaulted is **GRANTED**.

The petitioner's motion for summary judgment (Docket Entry No. 17) is **DENIED**. The petitioner's motion for summary judgment on his *Blakely* claim is **DENIED** as premature. The petitioner may renew his motion for summary judgment on this issue after the respondent responds to the merits of his *Blakely* claim. The petitioner's motion for summary judgment on his ineffective assistance claims is **DENIED**, because those claims are procedurally defaulted.

The petitioner has moved the court to instruct the respondent to file nine (9) documents that

the respondent did not provide as part of the record of the state court proceedings in the petitioner's case. (Docket Entry No. 15) The documents at issue all pertain to the petitioner's efforts to present his *Blakely* claim to the state appellate courts. (Docket Entry No. 15, pp. 4-14; No. 16, Attach. Ex.) The respondent is directed to respond to the petitioner's motion to expand the record not later than July 31, 2009. The Court will **HOLD IN ABEYANCE** its decision on the petitioner's motion to expand the record (Docket Entry No. 15) until after the respondent has responded to the motion.

It is so **ORDERED**.


Todd Campbell
United States District Judge